IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF WEST IRGINIA MARTINSBURG

MARK BRADLEY FOLTZ,

Plaintiff,

v. **CIVIL ACTION NO.: 3:20-CV-218 (GROH)**

ROBERT WEBSTER FIELDS JR., TURNER TRANSPORATION GROUP INC., and DOE DEFENDANTS 1-10,

Defendants.

PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF MOTIONS IN LIMINE 1-6

COMES NOW Plaintiff Mark Bradley Foltz, by counsel, Ronald M. Harman and Mark Jenkinson of Burke, Schultz, Harman & Jenkinson, and pursuant to the Federal Rules of Civil Procedure hereby offers the following Memorandum of Law in Support of Motions in Limine 1-6.

PLAINTIFF'S MOTION IN LIMINE #1
(Non-Party Fault)

Plaintiff Mark Bradley Foltz moves this Court for an order, in limine, to exclude any evidence, testimony, or argument by Defendants Robert Webster Fields Jr. and Turner Transportation Group Inc. that any of the Plaintiff's asserted damages were caused by the negligence of any non-party.

In support of this Motion, Plaintiff notes that the Defendants failed to give statutory notice within 180 days after service of process upon the Defendants that a non-party was wholly or partially at fault. W.Va. Code §55-7-13d (a)(2)(2015).

PLAINTIFF'S MOTION IN LIMINE #2
(Jackpot Justice)

Plaintiff Mark Bradley Foltz moves the Court for an order, in limine, precluding Defendants, their counsel and witnesses from arguing, mentioning, testifying or otherwise alluding to any of the following: greedy Plaintiffs' lawyers, lawyer advertising, jackpot justice, tort reform, or lawsuit abuse.

The introduction of such arguments or testimony would not meet the threshold test of relevant evidence set forth in FRE 401, and even if it did, the Court would be required to exclude it under FRE 403 on the basis that its probative value is substantially outweighed by the danger of unfair prejudice to the Plaintiff.

PLAINTIFF'S MOTION IN LIMINE #3
(Collateral Source Rule)

Plaintiff Mark Bradley Foltz moves to exclude any evidence, argument or claim regarding any payments received by Plaintiff Foltz from any collateral sources, including, but not limited to, proceeds or benefits received from his health insurance policies; employment benefits; short or long term disability insurers; services or benefits rendered gratuitously; social security disability, and other social legislation benefits.

In support of this motion, Plaintiff asserts that the "collateral source rule excludes payments from other sources to plaintiffs from being used to reduce damage awards imposed upon culpable defendants." Syl. Pt. 1, Kenney vs. Liston, 233 W.Va. 620, 760 S.E.2d 434 (2014). Additionally, the rule that collateral sources shall not be subtracted from a plaintiff recovery applies to any proceeds or benefits from sources such as insurance policies, whether maintained by the plaintiff or a third party; employment benefits; services rendered gratuitously; and social legislation benefits. Id., at Syl. Pt. 4.

PLAINTIFF'S MOTION IN LIMINE #4
(Matters Admitted)

Plaintiff Mark Bradley Foltz moves this Court for an order, in limine, to preclude any evidence, testimony, or argument contrary to matters already admitted by the Defendants in response to his Requests for Admissions.

Below Plaintiff has compiled a list of these matters admitted by the Defendants, to-wit:

1. Defendant Fields was an employee of Defendant Turner Transportation Group Inc. on August 29, 2018; (Exhibit 1, Request for Admission #1; Exhibit 2, Request for Admission #1);

2. Defendant Fields was operating a tractor-trailer owned by Defendant Turner Transportation Group Inc. within the course and scope of his employment at the time of the accident on August 29, 2018, on Charles Town Road in Berkeley County, West Virginia; (Exhibit 1, Request for Admission #2; Exhibit 2, Request for Admission #2);

3. On August 29, 2018, at approximately 3:54 p.m., Plaintiff Foltz was driving his 2002 Ford Mustang on Charles Town Road in Berkeley County, West Virginia; (Exhibit 1, Request for Admission #3; Exhibit 2, Request for Admission #3); and

4. Defendants' tractor-trailer struck the rear of Plaintiff's car on August 29, 2018, in Berkeley County, West Virginia; (Exhibit 1, Request for Admission #5; Exhibit 2, Request for Admission #5).

Plaintiff Foltz hereby moves that the Court rule that each of the above admissions by Defendants be deemed as conclusively established for all purposes at trial. Fed. R. Civ. P. 36(b). Plaintiff Foltz would ask that the jury be instructed as to these facts either before or after opening statements at trial or at some convenient time before any evidence is given.

PLAINTIFF'S MOTION IN LIMINE #5
(Erroneously Dated Letter)

Plaintiff Mark Bradley Foltz moves this Court for an order, in limine, to exclude any evidence, testimony, or argument by Defendant Robert Webster Fields Jr. and Defendant Turner Transportation Group Inc. regarding a letter erroneously dated August 4, 2018, from Theresa Fuhr

of Modern Transportation Services to Plaintiff Foltz, which letter referenced a requested unpaid leave of absence.

First, there is no evidence, medical or otherwise, suggesting that Mr. Foltz was having any difficulty performing his job or otherwise needed to request an unpaid leave of absence in the weeks leading up to the crash on August 29, 2018. Mr. Foltz's most recent pre-crash medical appointment was at Apple Valley Family Medicine on August 13, 2018, approximately two weeks prior to the crash. (Exhibit 3). At that time, Mr. Foltz presented with complaints of fatigue and diarrhea. (Exhibit 3). There was no mention of Mr. Foltz having difficulty performing his job or being taken off work by his physician. (Exhibit 3).

The Pay Statements, Employment Questionnaire, and the Wage and Salary Verification from Modern Transportation each support the proposition that Mr. Foltz continued to work through August 29, 2018, the day of the crash. (Exhibits 4, 5, and 6). There are no Unpaid Leave of Absence Request forms which bear the date of August 4, 2018. Moreover, there are no other documents maintained by Modern Transportation during the month of August, 2018 that state or even infer that Mr. Foltz intended to take an unpaid leave of absence.

Mr. Foltz was seen and treated at the Berkeley Medical Center on the day of the crash. On September 4, 2018, Mr. Foltz was seen once again at Apple Valley Family Medicine. (Exhibit 7). Mr. Foltz presented with complaints that he related to the crash, including low back pain. (Exhibit 6). At that time, Dr. Ude-Oshiyoye took Mr. Foltz off work for four weeks. (Exhibit 8).

Emails from Modern Transportation dated September 4, 2018 state that Mr. Foltz had called Modern Transportation and advised them that he had been injured in the crash, his physician had taken him off work for four weeks, his last date of work was August 29, 2018, and that his unpaid leave of absence would start effective August 30, 2018. (Exhibit 9).

What appears to have happened is that on September 4, 2018, Theresa Fuhr of Modern Transportation learned of Mr. Foltz's injuries and resulting leave of absence request. (Exhibit 9). In response to this, Ms. Fuhr, seeking to assist Mr. Foltz with his leave of absence request, delivered a letter to Mr. Foltz which was erroneously dated August 4, 2018, and enclosed an Unpaid Leave of Absence Request Form properly dated *September* 4, the same date that Plaintiff was taken off work by his physician. (Exhibit 10). Plaintiff asserts that the Unpaid Leave of Absence Request Form dated September 4, 2018, and which was enclosed with the letter dated August 4, 2018, proves that the letter contained an erroneous date. (Exhibit 10).

Plaintiff further directs this Court to the fact that Tuesday, September 4, 2018, was the first workday in the month of September after the 2018 Labor Day weekend. It is fairly clear that Ms. Fuhr either typed the wrong month or simply forgot to change the month from August to September when she sent the form letter erroneously dated August 4, 2018, with enclosures, to Mr. Foltz. (Exhibit 10).

Plaintiff Foltz anticipates that the Defendants will seek to introduce the aforementioned letter erroneously dated August 4, 2018, either by itself or with other documents that were not enclosed with the original letter, in an attempt to suggest to the jury that Plaintiff Foltz somehow needed to take an unpaid leave of absence prior to the subject crash on August 29, 2018. Plaintiff asserts that the introduction of such arguments, documents, or testimony regarding said letter would not meet the threshold test of relevant evidence set forth in Fed. R. Evid. 401, and even if it did, the Court would be required to exclude it under Fed. R. Evid. 403 on the basis that its probative value is substantially outweighed by the danger of unfair prejudice to the Plaintiff, as well as the danger of misleading the jury.

PLAINTIFF'S MOTION IN LIMINE #6
(Random Drug Screen)

Plaintiff Mark Bradley Foltz moves the Court for an order, in limine, to exclude any evidence, testimony, or argument by Defendant Robert Webster Fields Jr. and Defendant Turner Transportation Group Inc. regarding the results of a random urine drug screen performed at the request of Charles Winters, M.D., on August 5, 2021. The results of this urine screen resulted in a detection of marijuana metabolite, nicotine metabolite, Tramadol, and O-Desymethyl Tramadol, none of which were prescribed for Plaintiff Foltz at the time of the screening.

Plaintiff Foltz asserts that any evidence, testimony, or arguments regarding the aforementioned urine screen results do not meet the threshold test of relevant evidence set forth in Fed. R. Evid. 401, and even if it did, the Court would be required to exclude same under Fed. R. Evid. 403 on the basis that its probative value is substantially outweighed by the danger of unfair prejudice to the plaintiff, confusion of the issues, and/or misleading the jury.

CONCLUSION

Based upon the foregoing, Plaintiff Mark Bradley Foltz respectfully requests that this Court approve his Motions in Limine 1-6.

Mark Bradley Foltz
By Counsel

/s/ Ronald M. Harman
Ronald M. Harman - W.Va. Bar No. 6040
Mark Jenkinson – W.Va. Bar No. 5215
Burke, Schultz, Harman & Jenkinson
Post Office Box 1938
Martinsburg, WV 25402-1938
(304) 263-0900
(304) 267-0469 (f)
rharman@burkeandschulz.com
mjenkinson@burkeandschultz.com

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG DIVISION

MARK BRADLEY FOLTZ,

Plaintiff,

v.

ROBERT WEBSTER FIELDS, JR., TURNER TRANSPORTATION GROUP, INC., and DOE DEFENDANTS 1-10,

Defendants.

Civil Action No. 3:20-CV-218 (GROH)

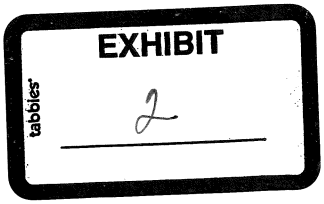
DEFENDANT ROBERT W. FIELDS, JR.'S RESPONSES TO PLAINTIFF'S FIRST REQUEST FOR ADMISSIONS

Defendant, ROBERT W. FIELDS, JR., by counsel, states the following in response to Plaintiff's Request for Admissions pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure:

Request For Admission No. 1: On August 29, 2018, you were an employee of Turner Transportation Group Inc.

❑ Admitted ❑ Denied

ADMIT – Defendant Robert W. Fields, Jr. was an employee of Defendant Turner Transportation Group, Inc. on August 29, 2018.



Request For Admission No. 2: On August 29, 2018, at approximately 3:54 p.m., you were driving the extra heavy Volvo truck with a trailer attached thereto on Charles Town Road in Berkeley County, West Virginia.

❑ Admitted ❑ Denied

ADMIT IN PART; DENY IN PART.

ADMIT – Defendant Robert W. Fields, Jr. was operating a tractor-trailer owned by Defendant Turner Transportation Group, Inc., within the course and scope of his employment, at the time of an accident (approximately 3:54 p.m.) on August 29, 2018 on Charles Town Road in Berkeley County, West Virginia.

DENY – All remaining factual allegations in this Request.

OBJECT – Defendant Robert W. Fields, Jr. was operating a 2014 (model year) Volvo (make) Truck Tractor (body type) with a trailer attached. It is inaccurate and misleading to characterize the truck as "extra heavy."

Request For Admission No. 3: On August 29, 2018, at approximately 3:54 p.m., Plaintiff Foltz (hereinafter also referred to as "Plaintiff Foltz") was driving his 2002 Ford Mustang on Charles Town Road in Berkeley County, West Virginia.

❑ Admitted ❑ Denied

ADMIT.

Request For Admission No. 4: On August 29, 2018, at approximately 3:54 p.m., you failed to maintain control of the extra heavy Volvo truck on Charles Town Road in Berkeley County, West Virginia.

❑ Admitted ❑ Denied

ADMIT IN PART; DENY IN PART.

ADMIT – Defendant Robert W. Fields, Jr. was operating a tractor-trailer owned by Defendant Turner Transportation Group, Inc., within the course and scope of his employment, at the time of an accident (approximately 3:54 p.m.) on August 29, 2018 on Charles Town Road in Berkeley County, West Virginia. There was a collision between Defendants' tractor-trailer and Plaintiff's car on August 29, 2018 in Berkeley County, West Virginia. Defendants' tractor-trailer struck the rear of Plaintiff's car.

DENY – All remaining factual allegations and legal conclusions in this Request.

OBJECT – This Request seeks a legal conclusion. Discovery in this case has just begun. Defendants have not been afforded an opportunity to complete their reasonable investigation. The information currently available to Defendants will not allow them to admit or deny this legal conclusion. Therefore, Defendants cannot admit or deny this legal conclusion at the present time. Defendants reserve the right to amend this response once they have completed their investigation.

OBJECT – Defendant Robert W. Fields, Jr. was operating a 2014 (model year) Volvo (make) Truck Tractor (body type) with a trailer attached. It is inaccurate and misleading to characterize the truck as "extra heavy."

Request For Admission No. 5: On August 29, 2018, at approximately 3:54 p.m., you failed to keep a proper lookout for Plaintiff Foltz's vehicle on Charles Town Road in Berkeley County, West Virginia.

❑ Admitted ❑ Denied

ADMIT IN PART; DENY IN PART.

ADMIT – Defendant Robert W. Fields, Jr. was operating a tractor-trailer owned by Defendant Turner Transportation Group, Inc., within the course and scope of his employment, at the time of an accident (approximately 3:54 p.m.) on August 29, 2018 on Charles Town Road in Berkeley County, West Virginia. There was a collision between Defendants' tractor-trailer and Plaintiff's car on August 29, 2018 in Berkeley County, West Virginia. Defendants' tractor-trailer struck the rear of Plaintiff's car.

DENY – All remaining factual allegations and legal conclusions in this Request.

OBJECT – This Request seeks a legal conclusion. Discovery in this case has just begun. Defendants have not been afforded an opportunity to complete their reasonable investigation. The information currently available to Defendants will not allow them to admit or deny this legal conclusion. Therefore, Defendants cannot admit or deny this legal conclusion at the present time. Defendants reserve the right to amend this response once they have completed their investigation.

Request For Admission No. 6: On August 29, 2018, at approximately 3:54 p.m., the extra heavy Volvo truck which you were driving struck the rear of Plaintiff Foltz's 2002 Ford Mustang on Charles Town Road in Berkeley County, West Virginia.

❑ Admitted ❑ Denied

ADMIT IN PART; DENY IN PART.

ADMIT – Defendant Robert W. Fields, Jr. was operating a tractor-trailer owned by Defendant Turner Transportation Group, Inc., within the course and scope of his employment, at the time of an accident (approximately 3:54 p.m.) on August 29, 2018 on Charles Town Road in Berkeley County, West Virginia. There was a collision between Defendants' tractor-trailer

Request For Admission No. 22: Plaintiff Foltz suffered permanent injury as a direct and proximate result of the collision described in Request For Admission No. 6 above.

DENY.

OBJECT – Discovery in this case has just begun. Defendants have not been afforded an opportunity to complete their reasonable investigation. The information currently available to Defendants will not allow them to admit or deny this request. Therefore, Defendants cannot further assess Plaintiff Foltz's alleged injury and damage claims at the present time. Defendants reserve the right to amend this response once they have completed their investigation.

DATED the 5th day of February 2021.

DEFENDANT
ROBERT W. FIELDS, JR.
By Counsel

/s/ Joseph L. Caltrider

Joseph L. Caltrider WVSB #6870
Joshua A. Lanham WVSB #13218
BOWLES RICE LLP
Post Office Drawer 1419
Martinsburg, West Virginia 25402-1419
jcaltrider@bowlesrice.com
(304) 264-4214

MRN: E1876424

Foltz, Mark Bradley

Ude-Oshiyoye, Ngozi, MD
Physician
Specialty: Apple Valley Family Medicine-CC

Progress Notes
Signed

Encounter Date: 8/13/2018

APPLE VALLEY FAMILY MEDICINE AND URGENT CARE, INC.
202 Foxcroft Avenue
Martinsburg WV 25401-5312
Phone: 304-350-1087
Fax: 304-901-2911

Encounter Date: 8/13/2018

Patient ID: Mark Bradley Foltz
MRN:E1876424
DOB: 1/28/1963
Age: 55 y.o. male

Subjective:

Chief Complaint
Patient presents with
- Fatigue
- Diarrhea

HPI
55y/o male here diarrhea X 2wks. Straight watery stool, feels like right when he eats he has bm. Anorexia, fever/chills. hasnt seen GI doc.

Current Outpatient Prescriptions

Medication	Sig
• amLODIPine (NORVASC) 10 mg Oral Tablet	Take 1 Tab (10 mg total) by mouth Once a day
• AMLODIPINE BESYLATE, BULK, N/A	by Does not apply route Once a day Amlodipine besylate 10 mg tabs
• atorvastatin (LIPITOR) 20 mg Oral Tablet	Take 20 mg by mouth Every evening
• dicyclomine (BENTYL) 10 mg Oral Capsule	Take 1 Cap (10 mg total) by mouth Four times a day
• ergocalciferol, vitamin D2, (DRISDOL) 50,000 unit Oral Capsule	Take 1 Cap (50,000 Units total) by mouth Every 7 days
• L GASSERI/B BIFIDUM/B LONGUM (PROBIOTIC COLON CARE ORAL)	Take by mouth Once a day Phillips probiotic colon health
• levothyroxine (SYNTHROID) 175 mcg Oral Tablet	Take 1 Tab (175 mcg total) by mouth Every morning
• losartan-hydrochlorothiazide (HYZAAR) 100-25 mg Oral Tablet	Take 1 Tab by mouth Once a day
• MULTIVITAMIN/IRON/FOLIC ACID (CENTRUM COMPLETE ORAL)	Take by mouth Once a day

EXHIBIT
tabbies
3

• omeprazole (PRILOSEC) 20 mg Oral Capsule, Delayed Release (E.C.)	Take 1 Cap (20 mg total) by mouth Once a day
• pioglitazone (ACTOS) 15 mg Oral Tablet	Take 1 Tab (15 mg total) by mouth Once a day
• sitaGLIPtin (JANUVIA) 100 mg Oral Tablet	Take 100 mg by mouth Once a day
• sitaGLIPtin-metformin (JANUMET XR) 100-1,000 mg Oral Tab, Multiphasic Release 24 hr	Take 1 Tab by mouth Once a day
• traZODone (DESYREL) 50 mg Oral Tablet	Take 1 Tab (50 mg total) by mouth Every night
• valsartan-hydroCHLOROthiazide (DIOVAN HCT) 320-12.5 mg Oral Tablet	Take 1 Tab by mouth Once a day

Allergies

Allergen	Reactions
• Codeine	
Rectal bleeding	

Past Medical History:

Diagnosis	Date
• Diabetes mellitus, type 2 (CMS HCC)	
• Esophageal reflux	
• Hypertension	4/9/2018
• Hypothyroidism	

Past Surgical History:

Procedure	Laterality	Date
• HX HERNIA REPAIR		
• SPINAL FUSION		

Family Medical History

Problem	Relation (Age of Onset)
Cancer	Father, Sister
High Cholesterol	Father
Hypertension	Mother, Father
Melanoma	Sister
Migraines	Sister
Thyroid Disease	Mother

Social History

Substance Use Topics	
• Smoking status:	Current Every Day Smoker
• Smokeless tobacco:	Never Used

- Alcohol use None

Review of Systems
Constitutional: Positive for fatigue.
HENT: Negative.
Eyes: Negative.
Respiratory: Negative.
Cardiovascular: Negative.
Gastrointestinal: Positive for abdominal pain, diarrhea and nausea.
Musculoskeletal: Negative.
Skin: Negative.
Neurological: Negative.
Psychiatric/Behavioral: Negative.

Objective:
Vitals: BP (!) 154/92 | Pulse 90 | Temp 36.6 °C (97.9 °F) | Resp 16 | Ht 1.854 m (6' 1") | Wt 102.8 kg (226 lb 9.6 oz) | SpO2 97% | BMI 29.9 kg/m2

Physical Exam
Constitutional:
Fatigue appearing
HENT:
Head: Normocephalic and atraumatic.
Eyes: Pupils are equal, round, and reactive to light.
Neck: Normal range of motion.
Cardiovascular: Normal rate, regular rhythm and normal heart sounds.
Pulmonary/Chest: Effort normal and breath sounds normal.
Abdominal: Soft. Bowel sounds are normal.
Obese
Sore to deep palpation
Skin: Skin is warm.
Psychiatric: He has a normal mood and affect. His behavior is normal. Judgment and thought content normal.

Assessment & Plan:

ENCOUNTER DIAGNOSES

	ICD-10-CM
1. **Diarrhea, unspecified type**	**R19.7**
2. Insomnia, unspecified type	G47.00

Referral GI
Start trazodone for insomnia
Samples given for diarrhea

Orders Placed This Encounter
- OUTSIDE CONSULT/REFERRAL PROVIDER(AMB)
- traZODone (DESYREL) 50 mg Oral Tablet

Ngozi Ude-Oshiyoye, MD
Electronically signed by Ude-Oshiyoye, Ngozi, MD at 08/15/18 1901

Office Visit
on
8/13/2018

MODERN TRANSPORTATION

Modern Transportation Services LLC
2605 Nicholson Road
Suite 2301
Sewickley, PA 15143
412-489-0027

Pay Statement
Period Start Date 08/05/2018
Period End Date 08/11/2018
Pay Date 08/21/2018
Document 50312
Net Pay $767.26

Pay Details

Mark Foltz	Employee Number	180014	Pay Group	Modern Drivers and Field	Federal Income Tax S 0
159 Scarlet Oak	SSN	XXX-XX-XXXX	Location	Hagerstown	WV State Income Tax (Residence) S 0
Martinsburg, WV 25401	Job	Driver	Department	05BRPA - Brockway	MD State Income Tax (Work) S 0
USA	Pay Rate	$0.0000			
	Pay Frequency	Weekly			

Earnings

Pay Type	Hours	Pay Rate	Current	YTD
Bonus			$29.32	$537.61
Equip Shuttle	0.0000	$0.0000	$0.00	$36.00
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	$30,536.00
Holiday	0.0000	$0.0000	$0.00	$400.00
Paid Time Off	0.0000	$0.0000	$0.00	$1,600.00
Pickup Det	0.0000	$0.0000	$0.00	$54.96

Total Hours 0.0000

Deductions

			Employee		Employer	
Deduction	Based On	Pre-Tax	Current	YTD	Current	YTD
Medical Silver	$0.00	Yes	$62.41	$2,121.94	$0.00	$0.00
STD	$0.00	No	$0.00	$220.34	$0.00	$0.00
Vol Accident	$0.00	No	$3.98	$135.32	$0.00	$0.00
Vol Life Emp	$20,000.00	No	$4.48	$152.32	$0.00	$0.00
Voluntary STD	$550.00	No	$8.52	$127.80	$0.00	$0.00

Taxes

Tax	Based On	Current	YTD
Federal Income Tax	$1,046.91	$136.58	$3,800.76
Employee Medicare	$1,046.91	$15.18	$450.12
Social Security Employee Tax	$1,046.91	$64.91	$1,924.64
WV State Income Tax	$1,046.91	$46.00	$1,323.00

Paid Time Off

Plan	Current	Balance
Paid Time Off 1	2.3077	27.3850

Net Pay Distribution

Account Number	Account Type	Amount
xxxxxxxx0007	Checking	$767.26
Total		$767.26

Pay Summary

	Gross	FIT Taxable Wages	Taxes	Deductions	Net Pay
Current	$1,109.32	$1,046.91	$262.67	$79.39	$767.26
YTD	$33,164.57	$31,042.63	$7,498.52	$2,757.72	$22,908.33

EXHIBIT
tabbies
4

MODERN TRANSPORTATION

Modern Transportation Services LLC
2605 Nicholson Road
Suite 2301
Sewickley, PA 15143
412-489-0027

Pay Statement

Period Start Date	08/12/2018
Period End Date	08/18/2018
Pay Date	08/28/2018
Document	50737
Net Pay	$716.86

Pay Details

Mark Foltz	**Employee Number**	180014	**Pay Group**	Modern Drivers and Field	**Federal Income Tax** S 0
159 Scarlet Oak	**SSN**	XXX-XX-XXXX	**Location**	Hagerstown	**WV State Income Tax (Residence)** S 0
Martinsburg, WV 25401	**Job**	Driver	**Department**	05BRPA - Brockway	**MD State Income Tax (Work)** S 0
USA	**Pay Rate**	$0.0000			
	Pay Frequency	Weekly			

Earnings

Pay Type	Hours	Pay Rate	Current	YTD
Bonus	0.0000	$0.0000	$0.00	$537.61
Equip Shuttle	0.0000	$0.0000	$0.00	$36.00
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	$30,968.00
Holiday	0.0000	$0.0000	$0.00	$400.00
Paid Time Off	24.0000	$25.0000	$600.00	$2,200.00
Pickup Det	0.0000	$0.0000	$0.00	$54.96

Total Hours 24.0000

Deductions

			Employee		Employer	
Deduction	Based On	Pre-Tax	Current	YTD	Current	YTD
Medical Silver	$0.00	Yes	$62.41	$2,184.35	$0.00	$0.00
STD	$0.00	No	$0.00	$220.34	$0.00	$0.00
Vol Accident	$0.00	No	$3.98	$139.30	$0.00	$0.00
Vol Life Emp	$20,000.00	No	$4.48	$156.80	$0.00	$0.00
Voluntary STD	$550.00	No	$8.52	$136.32	$0.00	$0.00

Taxes

Tax	Based On	Current	YTD
Federal Income Tax	$969.59	$119.57	$3,920.33
Employee Medicare	$969.59	$14.06	$464.18
Social Security Employee Tax	$969.59	$60.12	$1,984.76
WV State Income Tax	$969.59	$42.00	$1,365.00

Paid Time Off

Plan	Current	Balance
Paid Time Off 1	2.3077	5.6927

Net Pay Distribution

Account Number	Account Type	Amount
xxxxxxxxx0007	Checking	$716.86
Total		$716.86

Pay Summary

	Gross	FIT Taxable Wages	Taxes	Deductions	Net Pay
Current	$1,032.00	$969.59	$235.75	$79.39	$716.86
YTD	$34,196.57	$32,012.22	$7,734.27	$2,837.11	$23,625.19

Modern Transportation Services LLC
2605 Nicholson Road
Suite 2301
Sewickley, PA 15143
412-489-0027

Pay Statement	
Period Start Date	08/19/2018
Period End Date	08/25/2018
Pay Date	09/04/2018
Document	51149
Net Pay	$747.64

Pay Details

Mark Foltz	Employee Number	180014	Pay Group	Modern Drivers and Field	Federal Income Tax S 0
159 Scarlet Oak	SSN	XXX-XX-XXXX	Location	Hagerstown	WV State Income Tax (Residence) S 0
Martinsburg, WV 25401	Job	Driver	Department	05BRPA - Brockway	MD State Income Tax (Work) S 0
USA	Pay Rate	$0.0000			
	Pay Frequency	Weekly			

Earnings

Pay Type	Hours	Pay Rate	Current	YTD
Bonus	0.0000	$0.0000	$0.00	$537.61
Equip Shuttle	0.0000	$0.0000	$0.00	$36.00
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	
Flat Pay			$108.00	$32,048.00
Holiday	0.0000	$0.0000	$0.00	$400.00
Paid Time Off	0.0000	$0.0000	$0.00	$2,200.00
Pickup Det	0.0000	$0.0000	$0.00	$54.96

Total Hours 0.0000

Deductions

			Employee		Employer	
Deduction	Based On	Pre-Tax	Current	YTD	Current	YTD
Medical Silver	$0.00	Yes	$62.41	$2,246.76	$0.00	$0.00
STD	$0.00	No	$0.00	$220.34	$0.00	$0.00
Vol Accident	$0.00	No	$3.98	$143.28	$0.00	$0.00
Vol Life Emp	$20,000.00	No	$4.48	$161.28	$0.00	$0.00
Voluntary STD	$550.00	No	$8.52	$144.84	$0.00	$0.00

Taxes

Tax	Based On	Current	YTD
Federal Income Tax	$1,017.59	$130.13	$4,050.46
Employee Medicare	$1,017.59	$14.75	$478.93
Social Security Employee Tax	$1,017.59	$63.09	$2,047.85
WV State Income Tax	$1,017.59	$45.00	$1,410.00

Paid Time Off

Plan	Current	Balance
Paid Time Off 1	2.3077	8.0004

Net Pay Distribution

Account Number	Account Type	Amount
xxxxxxxx0007	Checking	$747.64
Total		$747.64

Pay Summary

	Gross	FIT Taxable Wages	Taxes	Deductions	Net Pay
Current	$1,080.00	$1,017.59	$252.97	$79.39	$747.64
YTD	$35,276.57	$33,029.81	$7,987.24	$2,916.50	$24,372.83

D. Michael Burke
Lawrence M. Schultz
Ronald M. Harman
Licensed in WV, MD & D.C.
Mark Jenkinson
Licensed in WV & MD

BURKE • SCHULTZ
HARMAN & JENKINSON
ATTORNEYS AT LAW

85 Aikens Center (Edwin Miller Blvd.) • P.O. Box 1938 • Martinsburg, WV 25402
304.263.0900 • www.burkeandschultz.com • fax 304.267.0469

C. Danielle Puller
Certified Paralegal

EMPLOYMENT QUESTIONNAIRE

Employee's Name: Mark Bradley Foltz

Employee's Address: 159 Scarlet Oak Drive
Martinsburg, WV 25405

Date of Birth: January 18, 1963

Date of Accident: August 29, 2018

Please provide the following dates regarding Mark Foltz's employment with Modern Transportation services:

1. Date of hire: 03/25/2015
2. Date he last performed work: 08/29/2018
3. Date of termination: 11/30/2018

Date: 12/31/2020

Signed: Diane Simanic

Name Printed: Diane Simanic

Title: Payroll/HR Representative

Employer's Name: Modern Transportation Services LLC

Employer's Address: 2605 Nicholson Rd, Ste 2301
Sewickley, PA 15143

Phone Number: (412) 489-0016

EXHIBIT
tabbies
5

D. Michael Burke
Lawrence M. Schultz
Ronald M. Harman
Licensed in WV, MD & DC
Mark Jenkinson
Licensed in WV & MD
Logan G. Burke

BURKE • SCHULTZ
HARMAN & JENKINSON
ATTORNEYS AT LAW

85 Aikens Center (Edwin Miller Blvd.) • P.O. Box 1938 • Martinsburg, WV 25402
304.263.0900 • www.burkeandschultz.com • fax 304.267.0469

C. Danielle Puller
Certified Paralegal

WAGE AND SALARY VERIFICATION

According to our records, the employee named below was injured in an accident, which has caused him/her to lose time from work. So that we may accurately calculate the amount of wage and benefit loss, please provide the information requested below. If you have any questions, please call Danielle at (304) 263-0900.

Employee's Name: Mark Bradley Foltz

Employee's Address: 159 Scarlet Oak Drive
Martinsburg, WV 25405

Date of Birth: January 18, 1963

Date of Accident: August 29, 2018

Occupation of Employee: Driver

Wage as of Date of the Accident: $ 36,376.67 for the year 2018

Overtime hourly wage as of Date of Accident: $ N/A

Average weekly hours normally worked by employee:
Regular hours: Drivers are paid by the load, not by hour
Overtime hours: N/A

Dates of Absence due to Accident (For the period of 08/29/18 – Present): 8/30/2018-12/01/2018

Provide the number of days worked in a regular week: 40+

Did the employee lose any overtime, pay differential, vacation time or accumulated sick leave as a result of being disabled? ☑ Yes ☐ No

If so, please explain and detail such loss: Lost PTO (Vacation time)
Loss of $865.39 PTO remaining 2018; loss of $3000 per every year thereafter

Date: 12/30/2020

Signed: Diane Simanic
Name Printed: Diane Simanic
Title: Payroll/HR Representative
Employer's Name: Modern Transportation Services LLC
Employer's Address: 2605 Nicholson Rd. Ste 2301
Sewickley PA 15143
Phone Number: (412) 489-0016

EXHIBIT
tabbies
6

Foltz, Mark Bradley

MRN: E1876424
Description: 55 year old male

Progress Notes Encounter Date: 9/4/2018

Ude-Oshiyoye, Ngozi, MD
Apple Valley Family Medicine-CC

APPLE VALLEY FAMILY MEDICINE AND URGENT CARE, INC.
202 Foxcroft Avenue
Martinsburg WV 25401-5312
Phone: 304-350-1087
Fax: 304-901-2911

Encounter Date: 9/4/2018

Patient ID: Mark Bradley Foltz
MRN:E1876424
DOB: 1/28/1963
Age: 55 y.o. male

Subjective:

Chief Complaint
Patient presents with
- Automobile Crash
  x6 days

HPI
55y/o male s/p mva 5days ago. Rear cnded by trailer. Nasal bone fracture, facial contusion. Some drainage from left eye. Right shoulder pain and pain worse w/ ROM. Mentions numbness in right hand, was holding a cup and dropped it. Pain in back and weakness in left leg w/ ambulation. Left leg feels weaker. Numbness/tingling in left calf. No urinary or fecal incontinence. Drainage from left eye.

Current Outpatient Prescriptions

Medication	Sig
• amLODIPine (NORVASC) 10 mg Oral Tablet	Take 1 Tab (10 mg total) by mouth Once a day
• AMLODIPINE BESYLATE, BULK, N/A	by Does not apply route Once a day Amlodipine besylate 10 mg tabs
• amoxicillin (AMOXIL) 500 mg Oral Capsule	Take 1 Cap (500 mg total) by mouth Three times a day for 10 days
• atorvastatin (LIPITOR) 20 mg Oral Tablet	Take 20 mg by mouth Every evening
• Azithromycin 1 % Ophthalmic Drops	Instill 1 Drop into left eye Once a day for 7 days
• dicyclomine (BENTYL) 10 mg Oral Capsule	Take 1 Cap (10 mg total) by mouth Four times a day
• ergocalciferol, vitamin D2, (DRISDOL) 50,000 unit Oral Capsule	Take 1 Cap (50,000 Units total) by mouth Every 7 days
• HYDROcodone-acetaminophen (NORCO) 5-325 mg Oral Tablet	Take 1-2 Tabs by mouth Every 4 hours as needed for Pain
•	Take by mouth Once a day Phillips probiotic colon health

EXHIBIT
tabbies
7

L GASSERI/B BIFIDUM/B LONGUM (PROBIOTIC COLON CARE ORAL)	
• levothyroxine (SYNTHROID) 175 mcg Oral Tablet	Take 1 Tab (175 mcg total) by mouth Every morning
• losartan-hydrochlorothiazide (HYZAAR) 100-25 mg Oral Tablet	Take 1 Tab by mouth Once a day
• MULTIVITAMIN/IRON/FOLIC ACID (CENTRUM COMPLETE ORAL)	Take by mouth Once a day
• omeprazole (PRILOSEC) 20 mg Oral Capsule, Delayed Release (E.C.)	Take 1 Cap (20 mg total) by mouth Once a day
• pioglitazone (ACTOS) 15 mg Oral Tablet	Take 1 Tab (15 mg total) by mouth Once a day
• sertraline (ZOLOFT) 50 mg Oral Tablet	Take 1 Tab (50 mg total) by mouth Once a day
• sitaGLIPtin (JANUVIA) 100 mg Oral Tablet	Take 100 mg by mouth Once a day
• sitaGLIPtin-metformin (JANUMET XR) 100-1,000 mg Oral Tab, Multiphasic Release 24 hr	Take 1 Tab by mouth Once a day
• traMADol (ULTRAM) 50 mg Oral Tablet	Take 1 Tab (50 mg total) by mouth Every 6 hours as needed for Pain
• traZODone (DESYREL) 50 mg Oral Tablet	Take 1 Tab (50 mg total) by mouth Every night
• valsartan-hydroCHLOROthiazide (DIOVAN HCT) 320-12.5 mg Oral Tablet	Take 1 Tab by mouth Once a day

Allergies

Allergen	Reactions
• Codeine	
Rectal bleeding	

Past Medical History:

Diagnosis	Date
• Diabetes mellitus, type 2 (CMS HCC)	
• Esophageal reflux	
• Hypertension	
• Hypothyroidism	4/9/2018

Past Surgical History:

Procedure	Laterality	Date
• HX HERNIA REPAIR		
• SPINAL FUSION		

Family Medical History

Problem	Relation (Age of Onset)
Cancer	Father, Sister

High Cholesterol	Father
Hypertension	Mother, Father
Melanoma	Sister
Migraines	Sister
Thyroid Disease	Mother

Social History
Substance Use Topics

• Smoking status:	Current Every Day Smoker
• Smokeless tobacco:	Never Used
• Alcohol use	None

Review of Systems
Constitutional: Positive for fatigue.
HENT: Negative.
Eyes: Negative.
Respiratory: Negative.
Cardiovascular: Negative.
Gastrointestinal: Negative.
Musculoskeletal: Positive for back pain.
Skin: Negative.
Neurological: Negative.
Psychiatric/Behavioral: The patient is nervous/anxious.

Objective:

Vitals: BP 119/76 | Pulse 96 | Temp 36.8 °C (98.2 °F) | Resp 16 | Ht 1.854 m (6' 1") | Wt 102.2 kg (225 lb 3.2 oz) | SpO2 98% | BMI 29.71 kg/m2

Physical Exam
Constitutional: He is oriented to person, place, and time. He appears well-developed and well-nourished.
Fatigue appearing
anxious
HENT:
Head: Normocephalic and atraumatic.
Racoon eyes
Ecchymosis bilateral
Eyes: Pupils are equal, round, and reactive to light.
Neck: Normal range of motion.
Cardiovascular: Normal rate, regular rhythm and normal heart sounds.
Pulmonary/Chest: Effort normal and breath sounds normal.
Abdominal: Soft. Bowel sounds are normal.
Musculoskeletal:
Limited ROM right shoulder due to pain
Tender to palpation chest wall.
Neurological: He is alert and oriented to person, place, and time.
Skin: Skin is warm.
Psychiatric:
anxious

Assessment & Plan:

ENCOUNTER DIAGNOSES

		ICD-10-CM
1.	**Nasal bone fractures**	**S02.2XXA**
2.	Facial contusion	S00.83X A
3.	Conjunctivitis, unspecified conjunctivitis type, unspecified laterality	H10.9
4.	PTSD (post-traumatic stress disorder)	F43.10
5.	Back pain, unspecified back location, unspecified back pain laterality, unspecified chronicity	M54.9

Xray Lspine
Azithromycin eye drop
zoloft started

Orders Placed This Encounter

- XR LUMBAR SPINE SERIES
- sertraline (ZOLOFT) 50 mg Oral Tablet
- Azithromycin 1 % Ophthalmic Drops
- traMADol (ULTRAM) 50 mg Oral Tablet

Ngozi Ude-Oshiyoye, MD
Electronically signed by Ude-Oshiyoye, Ngozi, MD at 09/04/18 1354

Office Visit on 9/4/2018

Apple Valley Family Medicine, Inc.

☐ **Kolawale Oshiyoye, M.D.**
Family Medicine
DEA #: FO4008389 • LIC #: 25370
NPI #: 1427362383

☑ **Ngozi Ude-Oshiyoye, M.D.**
Family Medicine
DEA #: FU2709345 • LIC #: 25427
NPI #: 1467616425

202 Foxcroft Avenue
Martinsburg, WV 25401
Tel: 304-350-1087 • Fax: 304-901-2911

Name. Mark Foltz .DOB 1/28/63

Address. Date. 9/14/18

℞

Off work for 4 wks

☐ 1-24
☐ 25-49
☐ 50-74
☐ 75-100
☐ 101-150
☐ 151 and over

Refill NR 1 2 3 4 5

[signature] MD

M.D.

This prescription may be filled with a generally equivalent drug product unless the words "BRAND NECESSARY" or "BRAND MEDICALLY NECESSARY" appears written in the practitioner's own handwriting on this prescription form.

Prescription is void if more than one (1) prescription is written per blank.

SCRIPT# 1975

Order # 2410455-1

FileRx.com 800-307-7717 RxPads.com

RX_2_WV_H

VERIFICATION BOX: HOLD BETWEEN THUMB AND FOREFINGER OR BREATHE ON IT. COLOR WILL DISAPPEAR, THEN REAPPEAR.

SAFETY FEATURES: COLORED VOID BACKGROUND • MICROPRINT LINES • IMPRINT ERASURE PROTECTION • REVERSE RX • THERMOCHROMIC INK • ON BACK: ARTIFICIAL WATERMARK • COIN REACTIVE INK

EXHIBIT
8

Archived: Thursday, June 17, 2021 9:47:41 AM
From: Theresa Fuhr
Sent: Tue, 4 Sep 2018 19:09:05
To: Lauren Segerdahl
Subject: FW: Mark Foltz 180014
Importance: Normal
Sensitivity: None

Lauren, FYI Mark advised on his way home from work, while at a red light, Mark was rear ended by a tractor trailer. The police told Mark it was traveling at an excessive high rate of speed. Mark told me his shoulder/back and eye was injured, doctor has him out for at least 4 weeks to heal.

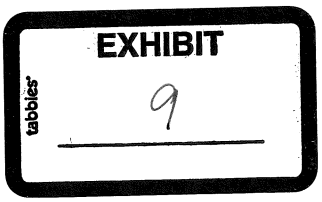
From: Theresa Fuhr
Sent: Tuesday, September 04, 2018 3:07 PM
To: Patrick Eberlin <patrick.eberlin@moderntrans.com>; Jennifer Grafton <jennifer.grafton@moderntrans.com>; Alexandria Magill <alexandria.magill@moderntrans.com>
Cc: Lauren Segerdahl <lauren.segerdahl@moderntrans.com>
Subject: Mark Foltz 180014

Mark Foltz's called and advised me that his last active date at work was Wednesday 08/29/2018.

Mark will be on an Unpaid LOA as of 08/30/2018 and is expected to be out for at least the next 4 weeks.

Jennifer, please pay out any available PTO time to Mark.

Thank you.



MODERN TRANSPORTATION
2605 Nicholson Road, Building II, Suite 301, Sewickley, PA 15143

August 4, 2018

Mr. Mark Foltz
159 Scarlet Oak
Martinsburg, WV 25401

Dear Mark,

Please find enclosed the paperwork necessary to request an Unpaid Leave of Absence from your role with Modern Transportation. The following items are to be completed and return as listed:

Unpaid Leave of Absence Request Form – please complete, sign/date and return to my attention to request an unpaid leave of absence. Any available PTO will be paid out to you. You will also remit payment of **$79.39 payable to Modern Transportation** to continue your benefits for any weeks you do not receive a paycheck. It will be your responsibility to continue to make payments on a weekly basis until your return to work. Failure to remit payment will result in the cancellation of your benefits.

Attending Physician's Form – to be completed by your doctor and returned to me asap. The position description and essential job functions are attached for the Attending Physician to use while completing the form for Modern Transportation.

Short Term Disability (STD) Claim Form – You complete (pages 1-2-3) and your attending physician(s) complete (page 5-6) the STD claim form. Completed pages 1-2-3-5-6 are to be returned directly to Mutual of Omaha. I have completed page 4, the Employers statement and have sent this to Mutual of Omaha.

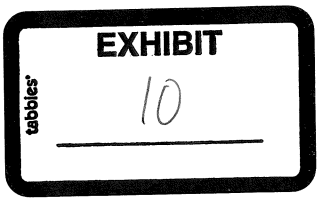
Please contact me with any questions. Thank you!

Phone: 412-489-4793
Fax: 412-200-5050
Email: Theresa.Fuhr@moderntrans.com

Thank you,

Theresa Fuhr
Benefits Specialist

Enclosures



MODERN
TRANSPORTATION

Unpaid Leave of Absence Request

Employee Name: Mark Foltz **Date of Request:** 09/04/2018

Reason for Leave: Medical **Date of Approval:** _____

Last Day Worked _____

Estimated Return to work date: _____

You must use any accrued Paid Time Off (PTO) to cover hours missed before the start of the unpaid leave. PTO benefits will not accrue while you are on a leave of absence. Leaves of absence are approved for a period of up to thirty (30) days.

Please submit an attending physician's statement directly to Human Resources (HR) prior to the effective date of your leave.

This information can be sent to Theresa Fuhr via

Fax: 412-774-1844
Email: Theresa.Fuhr@moderntrans.com
Mail to: Modern Transportation
2605 Nicholson Road
Bldg 2, Suite 301
Sewickley, PA 15143

If you are unable to return to work at the end of your leave, you must contact HR to request an extension at least five days prior to the leave expiration date. Extensions of leave will be considered on a case-by-case basis.

As a courtesy, and if applicable, based on the type of LOA request, you will be extended the option to continue your current group insurance benefits at the current employee contribution rates. You will be set up on a direct billing system to maintain your coverage and you will be required to mail in your weekly payments for coverage. If payments are not made weekly, your coverage may be cancelled.

Medical $62.41; Voluntary Short-Term Disability (STD) $8.52; Voluntary Accident $3.98; Employee Voluntary Life $4.48

Weekly Premium Costs: **$79.39**

_____ _____
Employee Signature Date

_____ _____
Signature of HR Representative Date

For Employer Use Only
Date Physician's Statement Received: _____

2605 Nicholson Road, Building II, Suite 301, Sewickley, PA 15143

To Be Completed by Attending Physician

History

Patient's Name: _____

Patient's symptoms as result of: (*Check all that apply*)

☐ Work related injury ☐ Illness ☐ Automobile Accident ☐ Pregnancy

☐ Other: _____

Date symptoms first appeared: _____

Please fully describe patient's limitations: _____

_____

Diagnosis

In terms of an 8 hour day:

☐ Class 1 - No limitation; capable of heavy work
☐ Class 2 - Medium activity; exert occasional force
☐ Class 3 - Slight limitation; capable of light work
☐ Class 4 - Moderate limitation; capable of sedentary work
☐ Class 5 - Severe limitation; incapable of minimal activity

Please fully describe the patient's capabilities:
N = Never O = Occasional F = Frequently C = Continuously

Standing: _____ Sitting: _____

Walking: _____ Driving: _____

Prognosis

Describe Treatment Program _____

_____

Patient's anticipated leave dates:
From: _____ To: _____

Physician's Name: _____

Physician's Signature _____

Date: _____

MODERN TRANSPORTATION

Department	Doc. Type	Version	Date
Operations	Job Description	1.1	08/16/2012

POSITION DESCRIPTION

Job Title: Driver	**Initial Description Date: 1/4/10**
Position Reports To: Terminal Manager	**Revised Description Date:**
Direct Reports: N/A	
Access to Confidential Information: No	

PRIMARY OBJECTIVE

Strive to provide a consistently unsurpassed level of customer service, while adapting to weather conditions, traffic problems and breakdowns. Driver personnel represent the company when they deliver merchandise to a customer. They are expected to conduct themselves in a courteous and considerate manner at all times.

PRINCIPLE DUTIES AND END RESULTS

The essential tasks, duties and responsibilities of the position that are most important to get the job done. Listed in order of importance.

1. Demonstrate actions of a being safe, professional and efficient driver at all times.
2. Demonstrates regular and predictable attendance.
3. Understand and adhere to all Modern Transportation policies and procedures.
4. Adhere to the loading and unloading policies.
5. Follow tank cleaning standard operating procedures before loading to prevent contamination.
6. Account for all delivery receipts at the end of every shift.
7. Comply with state and federal vehicle inspection laws. Complete a pre and post trip vehicle inspection for every trip.
8. Follow collision and injury reporting procedures regardless of severity.
9. Complete a log sheet daily and turn it in weekly when vehicle does not have an onboard computer.
10. Complete a daily trip report and turn it in daily upon completion of trip when vehicle does not have an onboard computer.
11. Comply with Modern Transportation's dress code and personal protection equipment.
12. Other duties as assigned. Management retains the discretion to add to or change the duties of the position at any time.

REQUIREMENTS

- Commercial Drivers License – Class A
- Knowledge of DOT regulations
- Minimum 2 years verifiable tractor-trailer experience
- At least 22 years old
- No more than 1 moving violation in the past 12 months, 2 in 24 months, or 3 in 60 months
- No DUI/DWI in a commercial vehicle
- No more than 2 preventable collisions

PHYSICAL DEMANDS

- Sitting – 75% of the time
- The other 25% could consist of the following: Standing, Walking, Lifting, Carrying, Pushing, Pulling, Climbing, Balancing, Stooping, Kneeling, Crouching, Crawling, Reaching, Handling, Speaking, and Seeing.

WORKING CONDITIONS

- This is 24/7 operation, candidates must be flexible and willing to work any schedule.

Concentra®
Treated right

ESSENTIAL JOB FUNCTIONS

COMPANY: Modern Transportation/PIT

JOB TITLE: Truck Driver

	Task Description
LIFT1	Truck Driver Employee lifts hood of truck For HPE: Employee lifts 40 lbs. box from 45 inch height to 78 inch height. Requires vertically transferring weighing (40 Lbs.) from (45") to (78"), up to (1/day).
LIFT2	Truck Driver Employee bends to lift air lid For HEP: Employee lifts 10 lbs. on pully machine with single UE from floor to 24 inch height. Requires vertically transferring weighing (10 Lbs.) from (1") to (24"), up to (8/day).
LIFT3	Truck Driver Employee lifts hose from floor to shoulder For HEP: Employee lifts 50 lbs. box from floor to 60 inch height. Requires vertically transferring weighing (50 Lbs.) from (1") to (60"), up to (5/day).
PUSH/PULL1	Truck Driver Employee pulls hose For HPE: Employee pushes/pulls 40 lbs. of force at waist height for a distance of 10 feet. Must horizontally transfer requiring a force of (80 Lbs.), up to (3/day), a distance up to (10 ft.).
UPPER EXTREMITY PUSH/PULL1	Truck Driver Employee pushes hose to connect to trailer while kneeling; For HPE: Employee kneels (single knee) and pushes 40 lbs. on pulley machine at 14 inch height. Requires upper body forces of (40 Lbs.), up to (3/day).
UPPER EXTREMITY PUSH/PULL2	Truck Driver Employee cranks handle to lower/raise landing gear; For HPE: Employee performs pull downs at pulley machine from 53 inch height to 25 inch height. Requires upper body forces of (15 Lbs.), up to (60/day).
UPPER EXTREMITY PUSH/PULL3	Truck Driver Employee cranks handle to lower/raise landing gear; For HPE: Employee performs high pulls at pulley machine from 25 inch height to 53 inch height. Requires upper body forces of (15 Lbs.), up to (60/day).
COUPLE1	Truck Driver Employee grips valve under trailer requiring bilateral coupling forces greater than (30 Lbs.), (6/day) For HPE: Employee grips JAMAR greater than 30 lbs. of force and holds for 10 seconds.
CLIMB1	Truck Driver Employee ascends stairs to enter cab; For HPE: Employee steps up 26 inches and returns to floor. Requires climbing stairs up to 10 steps/day in (5 min.).
CLIMB2	Truck Driver Employee ascends ladder to top of trailer; For HPE: Employee steps up 3 rungs of ladder then descends to floor. Requires climbing ladder up to 10 rungs/day in (5 min.).
OTHER1	Truck Driver Employee squats to reach valves under trailer; For HPE: Employee performs a full squat then rises for 10 repetitions.

Concentra
treated right

ESSENTIAL JOB FUNCTIONS

COMPANY: Modern Transportation/PIT

JOB TITLE: Truck Driver

	Task Description
OTHER2	Truck Driver Employee bends to reach hose on ground; For HPE: Employee bends trunk forward to a level where his hands are at 8 inch height for 10 repetitions.
OTHER3	Truck Driver Employee kneels to push hose to connect to trailer; For HPE: Employee assumes kneeling position (single or double knee) then rises for 10 repetitions.
OTHER4	Truck Driver Employee twists trunk to look side to side while driving; For HPE: Employee rotates trunk in both directions to focus on tester positioned behind chair for 10 repetitions.
OTHER5	Truck Driver Employee reaches forward to grip valves under trailer; For HPE: Employee reaches at shoulder height to 20 inches in front of body for 10 repetitions.
OTHER6	Truck Driver Employee reaches overhead to lift hood; For HPE: Employee reaches overhead at 165 degrees of shoulder flexion bilaterally for 10 repetitions.

A Guide for Successfully Completing the Group Short-Term Disability Claim Form

Mutual of Omaha appreciates the opportunity to provide you with valuable income protection. We rely on the information you provide on this form to effectively determine if you qualify for group short-term disability benefits.

This guide provides information and instruction to help you successfully complete and submit the claim form. Please consult your employer/benefits administrator if you need assistance in providing information for the form.

Important Tips for Paper Copy Submission

- Prior to submission, make sure you have provided all required information and answered all questions completely and accurately. If information is missing or cannot be read, the processing of your form will be delayed.
- The following guidelines provide valuable information to help you successfully complete the form.
- Please make a copy of the completed form for your records before submitting it to Mutual of Omaha/United of Omaha.

Section 1: Employee Statement

This section is to be completed by the Employee. Dates should include the month, date and year. In order to be considered complete, the form must be signed by you.

- Group ID Number for your Employer will consist of eight characters, beginning with "G000" and followed by four additional letters or numbers specific to your Employer.
- Job Title is the title of your position held with the Employer.
- The Hours Worked per Week is the number of hours you worked per week for the Employer.
- Height should be provided in feet and inches.
- Weight should be provided in pounds.
- Dominant Hand indicates whether you are primarily right- or left-handed.
- Date of Disability is the first day you were absent from work because of the disabling condition.
- Date First Treated is the date you first sought medical care because of the disabling condition.
- Other Income means money you are currently receiving or have applied to receive from any source in addition to your claim for disability benefits with Mutual of Omaha/ United of Omaha.
- Medical records from your providers may be needed in order to make a determination on your claim. A completed authorization form will be needed to obtain them. To avoid any additional delays in the claim, please be sure to complete and submit the authorization forms with your claim application.

Authorization to Disclose Personal Information & Authorization to Disclose Health Information to My Employer

Both authorizations are to be completed by the Employee. Dates should include the month, date and year. In order to be considered complete, the form must be signed by you or your legal representative.

- By signing the authorization, you are applying for short-term disability benefits with Mutual of Omaha/United of Omaha and are agreeing to allow disclosure of personal information to the necessary parties for the purpose of claim processing.
- If the name associated with any of your medical records differs from the name provided on the form, provide any alternate names. This might occur in the event of a name change due to marriage or adoption.

Guidelines for Section 2: Employer's Statement

This section is to be completed by the Employer. Dates should include the month, date and year. In order to be considered complete, the form must be signed by the Employer.

- Group ID Number consists of eight characters, beginning with "G000" and followed by four additional letters or numbers.
- Date Covered Under This Plan indicates the date in which the Employee's coverage became effective.
- Please include copy of Employee's enrollment form, if applicable.

Guidelines for Section 3: Attending Physician's Statement

This section is to be completed by the Attending Physician. Dates should include the month, date and year. In order to be considered complete, the form must be signed by the Attending Physician.

Required Fraud Warnings

Before completing the claim form, please read the Required Fraud Warnings listed on the following page.

Short-Term Disability Claim Form

Mutual of Omaha Insurance Company
United of Omaha Life Insurance Company
Group Insurance Claims Management
3300 Mutual of Omaha Plaza
Omaha, NE 68175-0001
Phone 800-877-5176 Fax 402-997-1865 Email newdisabilityclaim@mutualofomaha.com

Section 1 – Employee Statement (Answer all questions to avoid delay)

Current Employer's Name	Group ID Number	Job Title	Hours Worked per Week

Name

Address	City	State	ZIP

(Area Code) Home Telephone Number	(Area Code) Cellular Telephone Number	Social Security Number

Email Address

Date of Birth	Height	Weight	Dominant Hand: ☐ Right ☐ Left	☐ Male ☐ Female	☐ Single ☐ Married	☐ Widowed ☐ Divorced

Date of Disability (1st Day Absent)	Date First Treated	Estimated Return to Work Date

Nature of illness and when symptoms first appeared, or describe how and where accident occurred.

Was the disability work related? ☐ Yes ☐ No Have you filed a workers' compensation claim? ☐ Yes ☐ No

Was disability related to a motor vehicle accident or is another third party liable? ☐ Yes ☐ No

Physician's Name

Other income you have filed for, are receiving, or are eligible for:

	Amount	Date Claim Filed	Date Benefits Began
Workers' Compensation	$		
State Disability	$		
Paid Family Leave	$		
Other	$		

*Medical records from your providers may be needed in order to make a determination on your claim. A completed Authorization form will be needed to obtain them. To avoid any additional delays in the claim, please be sure to complete and submit the Authorization forms with your claim application.

Overpayment Notice: Should you become overpaid at any time during the duration of this claim we, Mutual of Omaha Insurance Company (Mutual) or United of Omaha Life Insurance Company (United), will request reimbursement of the overpaid amount. This amount is equal to the net benefit you received and any Federal Income Tax paid on your behalf for any time prior to current tax year. Your signature on the claim form authorizes Mutual or United to recover any overpaid Medicare and/or Social Security Tax that was paid on your behalf and certifies you will not attempt to recover a refund or credit of the Medicare and/or Social Security Tax with any Form W-2C that is furnished to you based on recoveries received.

Important Notice: If you have group life insurance through your employer, please contact your benefits administrator as soon as possible to determine what options are available to you to continue your life insurance. Some options require action within 31 days of the date you stop working/insurance ends for life insurance to continue.

If your coverage is written in California, North Carolina or Michigan and includes Survivor Benefits, please check your policy to determine if you can elect a survivor benefit beneficiary. If so, you may obtain a Beneficiary Designation form on the Internet or from your employer.

Any person who knowingly and with intent to injure, defraud or deceive any insurer files a statement of claim or an application containing false, incomplete, or misleading information is guilty of a felony of the third degree.

Employee's Signature: _____ **Date:** _____

Authorization to Disclose Personal Information

1. I authorize any physician, medical or dental practitioner, hospital, clinic, pharmacy benefit manager, other medical care facility, health maintenance organization, insurer, employer, consumer reporting agency and any other provider of medical or dental services to release records containing the personal information of:

   Claimant/Patient Name: _____
   (Last) (First) (Middle)

   Date of Birth: _____/_____/_____

2. Personal information includes medical history, mental and physical condition, prescription drug records, alcohol or drug use, financial and occupational information.

3. You may release information to:

   Group Disability Management Services
   Mutual of Omaha Insurance Company/United of Omaha Life Insurance Company
   3300 Mutual of Omaha Plaza
   Omaha, NE 68175-0001

   Or

   Fax 402-997-1865

   Or

   Email newdisabilityclaim@mutualofomaha.com

4. I understand that the personal information that is disclosed will be used by Mutual of Omaha Insurance Company and United of Omaha Life Insurance Company to evaluate my claim for disability benefit plan reimbursement and that if I refuse to sign this authorization my claim for benefits may not be paid.

5. I understand that if the person or entity to whom information is disclosed is not a health care provider or health plan subject to federal privacy regulations, the personal information may be redisclosed without the protection of the federal privacy regulations.

6. This authorization will expire 24 contiguous months after the date signed.

7. I understand that I may revoke this authorization at any time by providing a written request to Mutual of Omaha Insurance Company and United of Omaha Life Insurance Company at the address above. If I revoke this authorization, it will not affect any use or disclosure of personal information that occurred prior to the receipt of my revocation.

8. I understand that I am entitled to receive a copy of this authorization and that a copy is as valid as the original.

RETAIN A SIGNED COPY FOR YOUR RECORDS

Name(s) used for records (if different than the name below): _____

_____

_____ _____
Signature of Claimant Date

If Applicable: I am the legal representative of the claimant and I am authorized to grant permission on behalf of the claimant.

Printed Name of Legal Representative: _____

Signature of Legal Representative: _____

Type of Legal Representative: _____

THIS AUTHORIZATION COMPLIES WITH HIPAA AND OTHER FEDERAL AND STATE LAWS

MUG2854_0815

Form continued on Page 3

Authorization to Disclose Health Information to My Employer

I authorize Mutual of Omaha Insurance Company and United of Omaha Life Insurance Company to disclose health information about me to my employer, and to my employer's broker. I understand that this information will be used by my employer, and its broker, to monitor and manage the disability benefits program provided under my Group disability policy. I also understand that my employer and its broker will use the information solely for the purposes of auditing disability benefits paid, providing claims assistance, determining waiver or discontinuance of premium deductions, and coordinating with other subsidized salary continuance plans my employer may offer.

The health information which may be disclosed pursuant to this authorization includes such items as medical history, mental and physical condition, prescription drug records and alcohol or drug use.

I understand that I may refuse to sign this authorization. I realize that if I refuse to sign, my claim for benefits may not be paid.

This authorization will remain in effect for 24 contiguous months from the date I sign it. I understand that I may revoke this authorization at any time. If I would like to revoke this authorization, I should send my revocation request to:

ATTN: Group Disability Management Services
Mutual of Omaha Insurance Company/United of Omaha Life Insurance Company
3300 Mutual of Omaha Plaza
Omaha, NE 68175-0001

Or

Fax 402-997-1865

Or

Email newdisabilityclaim@mutualofomaha.com

I also understand that any revocation of this authorization will not affect any use or disclosure of health information that occurred prior to receipt of my revocation.

I understand that I am entitled to receive a copy of this authorization. A copy of this authorization is as effective as the original.

_____

(Printed Name and Address)

_____ _____

Signature Date

or

If Applicable: I am the legal representative of the person whose financial and health information is to be disclosed, but I am authorized to grant permission on behalf of that person.

Printed Name of Legal Representative: _____

Signature of Legal Representative: _____

Type of Legal Representative: _____

Date: _____

RETAIN A SIGNED COPY FOR YOUR RECORDS

FAX (402) 997-1865 **Email newdisabilityclaim@mutualofomaha.com** **Form must be completed in full at no expense to Mutual of Omaha.**

Section 3 – Attending Physician's Statement (Answer all questions to avoid delay)

Employer Name			Group ID Number
Name of Patient (Last, First, MI) – Please Print		Date of Birth	Employee's Phone Number
Employee Address	Employee City	Employee State	Employee ZIP
Diagnoses		ICD-9 Code(s)	
Symptoms		Date symptom first appeared	
Initial date of treatment:	Last date of treatment:	Next date of treatment/office visit:	
Is disability due to: ☐ Accident/Injury ☐ Sickness		Is the disability work related? ☐ Yes ☐ No	

If applicable, list the surgical code(s)/procedure(s) – Describe fully and provide dates, if any.

If disability is due to Pregnancy, please provide the information below:

Date of Last Monthly Period	Expected Date of Delivery	Expected Type of Delivery ☐ Vaginal ☐ Cesarean Section
Actual Date of Delivery	Actual Type of Delivery ☐ Vaginal ☐ Cesarean Section	

If any of the following questions are answered "Yes," then please provide the information to the right of that question.

Was the patient treated in an Emergency Room? ☐ Yes ☐ No	Date treated	Name of Hospital	Name of Physician
Did another physician treat or will be treating the patient? ☐ Yes ☐ No	Date treated	Physician's Name and Address	
Was the patient hospital confined? ☐ Yes ☐ No	Date Confined In Hospital: From_____ To_____	Name of Hospital	
Did patient have outpatient surgery in a hospital or ambulatory surgical center? ☐ Yes ☐ No	Date of Surgery	Name of Facility	

Functional Limitations – Abilities

Indicate frequency per day the listed activity can be performed.

(n = never, o = occasional, f = frequent, c = constant)

Lifting	Carrying			
_____ 1-5 lbs.	_____ 1-5 lbs.	_____ Sitting	_____ Kneeling	_____ R: Finger Dexterity
_____ 6-10 lbs.	_____ 6-10 lbs.	_____ Total time on feet		_____ L: Finger Dexterity
_____ 11-25 lbs.	_____ 11-25 lbs.	_____ Standing	_____ Inside	_____ R: Below Shoulder
_____ 26-50 lbs.	_____ 26-50 lbs.	_____ Walking		_____ L: Below Shoulder
_____ 51-100 lbs.	_____ 51-100 lbs.	_____ Bending	_____ Outside	_____ R: Above Shoulders
_____ Over 100 lbs.	_____ Over 100 lbs.	_____ Squatting	_____ Working with Others	_____ L: Above Shoulders
		_____ Stooping	_____ Other (explain)_____	

Reaching

Please notify us if the Employee returns to work after the submission of this form.

 Form continued on Page 6

FAX (402) 997-1865 **Email newdisabilityclaim@mutualofomaha.com** **Form must be completed in full at no expense to Mutual of Omaha.**

Mental Limitations – Abilities

Please check off the appropriate response of the person's ability to adapt to these specific job situations at this time.

	Unlimited	Somewhat Limited	Markedly Limited	Unable to Perform
Follow work rules	☐	☐	☐	☐
Perform repetitive, or short cycle work	☐	☐	☐	☐
Perform at a constant pace	☐	☐	☐	☐
Maintain attention and concentration	☐	☐	☐	☐
Perform a variety of duties	☐	☐	☐	☐
Understand, remember and carry out complex job instructions	☐	☐	☐	☐
Attain set limits and standards	☐	☐	☐	☐
Relate to coworkers	☐	☐	☐	☐
Interact with supervisors	☐	☐	☐	☐
Interact with the public/customers	☐	☐	☐	☐
Use judgment and make decisions	☐	☐	☐	☐
Direct, control or plan activities of others	☐	☐	☐	☐
Influence people in their opinions, attitudes and judgments	☐	☐	☐	☐
Expressing personal feelings	☐	☐	☐	☐
Work alone or apart in physical isolation from others	☐	☐	☐	☐

What functions of the person's own/usual occupation is the person unable to perform? (Please provide rationale here, if not already provided.)

What functional restrictions have been placed on this person?

The patient has been continuously disabled (unable to work) from _____ to _____

Is the patient able to work with job modifications? ☐ Yes ☐ No

The patient should be able to work ☐ Full-time ☐ Part-time on _____ or a specific date is unavailable, in
☐ 1 month ☐ 1-3 months ☐ 3-6 months ☐ Other (please specify)

Remarks and/or treatment plan

Name of the Attending Physician – Please Print	Specialty/Degree(s)	Tax Identification Number
Address (No., Street, City, State ZIP)	(Area Code) Telephone Number	(Area Code) Fax Number

If necessary, whom can we contact at the attending physician's office for additional information?

Name: (Area Code) Telephone Number:

Signature of Attending Physician Date

Please notify us if the Employee returns to work after the submission of this form.

MODERN TRANSPORTATION

Department	Doc. Type	Version	Date
Operations	Job Description	1.1	08/16/2012

POSITION DESCRIPTION

Job Title: Driver	**Initial Description Date: 1/4/10**
Position Reports To: Terminal Manager	**Revised Description Date:**
Direct Reports: N/A	
Access to Confidential Information: No	

PRIMARY OBJECTIVE

Strive to provide a consistently unsurpassed level of customer service, while adapting to weather conditions, traffic problems and breakdowns. Driver personnel represent the company when they deliver merchandise to a customer. They are expected to conduct themselves in a courteous and considerate manner at all times.

PRINCIPLE DUTIES AND END RESULTS

The essential tasks, duties and responsibilities of the position that are most important to get the job done. Listed in order of importance.

1. Demonstrate actions of a being safe, professional and efficient driver at all times.
2. Demonstrates regular and predictable attendance.
3. Understand and adhere to all Modern Transportation policies and procedures.
4. Adhere to the loading and unloading policies.
5. Follow tank cleaning standard operating procedures before loading to prevent contamination.
6. Account for all delivery receipts at the end of every shift.
7. Comply with state and federal vehicle inspection laws. Complete a pre and post trip vehicle inspection for every trip.
8. Follow collision and injury reporting procedures regardless of severity.
9. Complete a log sheet daily and turn it in weekly when vehicle does not have an onboard computer.
10. Complete a daily trip report and turn it in daily upon completion of trip when vehicle does not have an onboard computer.
11. Comply with Modern Transportation's dress code and personal protection equipment.
12. Other duties as assigned. Management retains the discretion to add to or change the duties of the position at any time.

REQUIREMENTS

- Commercial Drivers License – Class A
- Knowledge of DOT regulations
- Minimum 2 years verifiable tractor-trailer experience
- At least 22 years old
- No more than 1 moving violation in the past 12 months, 2 in 24 months, or 3 in 60 months
- No DUI/DWI in a commercial vehicle
- No more than 2 preventable collisions

PHYSICAL DEMANDS

- Sitting – 75% of the time
- The other 25% could consist of the following: Standing, Walking, Lifting, Carrying, Pushing, Pulling, Climbing, Balancing, Stooping, Kneeling, Crouching, Crawling, Reaching, Handling, Speaking, and Seeing.

WORKING CONDITIONS

- This is 24/7 operation, candidates must be flexible and willing to work any schedule.

Concentra®
treated right

ESSENTIAL JOB FUNCTIONS

COMPANY: Modern Transportation/PIT

JOB TITLE: Truck Driver

	Task Description
LIFT1	Truck Driver Employee lifts hood of truck For HPE: Employee lifts 40 lbs. box from 45 inch height to 78 inch height. Requires vertically transferring weighing (40 Lbs.) from (45") to (78"), up to (1/day).
LIFT2	Truck Driver Employee bends to lift air lid For HEP: Employee lifts 10 lbs. on pully machine with single UE from floor to 24 inch height. Requires vertically transferring weighing (10 Lbs.) from (1") to (24"), up to (8/day).
LIFT3	Truck Driver Employee lifts hose from floor to shoulder For HEP: Employee lifts 50 lbs. box from floor to 60 inch height. Requires vertically transferring weighing (50 Lbs.) from (1") to (60"), up to (5/day).
PUSH/PULL1	Truck Driver Employee pulls hose For HPE: Employee pushes/pulls 40 lbs. of force at waist height for a distance of 10 feet. Must horizontally transfer requiring a force of (80 Lbs.), up to (3/day), a distance up to (10 ft.).
UPPER EXTREMITY PUSH/PULL1	Truck Driver Employee pushes hose to connect to trailer while kneeling; For HPE: Employee kneels (single knee) and pushes 40 lbs. on pulley machine at 14 inch height. Requires upper body forces of (40 Lbs.), up to (3/day).
UPPER EXTREMITY PUSH/PULL2	Truck Driver Employee cranks handle to lower/raise landing gear; For HPE: Employee performs pull downs at pulley machine from 53 inch height to 25 inch height. Requires upper body forces of (15 Lbs.), up to (60/day).
UPPER EXTREMITY PUSH/PULL3	Truck Driver Employee cranks handle to lower/raise landing gear; For HPE: Employee performs high pulls at pulley machine from 25 inch height to 53 inch height. Requires upper body forces of (15 Lbs.), up to (60/day).
COUPLE1	Truck Driver Employee grips valve under trailer requiring bilateral coupling forces greater than (30 Lbs.), (6/day) For HPE: Employee grips JAMAR greater than 30 lbs. of force and holds for 10 seconds.
CLIMB1	Truck Driver Employee ascends stairs to enter cab; For HPE: Employee steps up 26 inches and returns to floor. Requires climbing stairs up to 10 steps/day in (5 min.).
CLIMB2	Truck Driver Employee ascends ladder to top of trailer; For HPE: Employee steps up 3 rungs of ladder then descends to floor. Requires climbing ladder up to 10 rungs/day in (5 min.).
OTHER1	Truck Driver Employee squats to reach valves under trailer; For HPE: Employee performs a full squat then rises for 10 repetitions.

Concentra®
treating right

ESSENTIAL JOB FUNCTIONS

COMPANY: Modern Transportation/PIT

JOB TITLE: Truck Driver

	Task Description
OTHER2	Truck Driver Employee bends to reach hose on ground; For HPE: Employee bends trunk forward to a level where his hands are at 8 inch height for 10 repetitions.
OTHER3	Truck Driver Employee kneels to push hose to connect to trailer; For HPE: Employee assumes kneeling position (single or double knee) then rises for 10 repetitions.
OTHER4	Truck Driver Employee twists trunk to look side to side while driving; For HPE: Employee rotates trunk in both directions to focus on tester positioned behind chair for 10 repetitions.
OTHER5	Truck Driver Employee reaches forward to grip valves under trailer; For HPE: Employee reaches at shoulder height to 20 inches in front of body for 10 repetitions.
OTHER6	Truck Driver Employee reaches overhead to lift hood; For HPE: Employee reaches overhead at 165 degrees of shoulder flexion bilaterally for 10 repetitions.

UNITED OF OMAHA LIFE INSURANCE COMPANY
A MUTUAL *of* OMAHA COMPANY

Group Claim Fraud Statements

The following fraud language is attached to, and made part of this claim form. Please read and do not remove these pages from this claim form.

** **Alabama:** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or who knowingly presents false information in an application for insurance is guilty of a crime and may be subject to restitution fines or confinement in prison, or any combination thereof.

** **Alaska:** A person who knowingly and with intent to injure, defraud, or deceive an insurance company files a claim containing false, incomplete, or misleading information may be prosecuted under state law.

** **Arizona:** For your protection Arizona law requires the following statement to appear on this form. Any person who knowingly presents a false or fraudulent claim for payment of a loss is subject to criminal and civil penalties.

** **Arkansas and Louisiana:** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

** **California:** For your protection California law requires the following to appear on this form. Any person who knowingly presents a false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison.

** **Colorado:** It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies.

** **Delaware:** Any person who knowingly, and with intent to injure, defraud or deceive any insurer, files a statement of claim containing any false, incomplete or misleading information is guilty of a felony.

** **District of Columbia:** WARNING: It is a crime to provide false or misleading information to an insurer or any other person. Penalties include imprisonment and/or fines. In addition, an insurer may deny insurance benefits if false information materially related to a claim was provided by the applicant.

** **Florida:** Any person who knowingly and with intent to injure, defraud, or deceive any insurer files a statement of claim or an application containing any false, incomplete, or misleading information is guilty of a felony of the third degree.

** **Idaho:** Any person who knowingly, and with intent to defraud or deceive any insurance company, files a statement containing any false, incomplete, or misleading information is guilty of a felony.

** **Indiana:** A person who knowingly and with intent to defraud an insurer files a statement of claim containing any false, incomplete, or misleading information commits a felony.

** **Kentucky:** Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime.

** **Maine:** It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties may include imprisonment, fines or a denial of insurance benefits.

** **Maryland:** Any person who knowingly or willfully presents a false or fraudulent claim for payment of a loss or benefit or who knowingly or willfully presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

** **Minnesota:** A person who files a claim with intent to defraud or helps commit a fraud against an insurer is guilty of a crime.

** **New Hampshire:** Any person who, with a purpose to injure, defraud or deceive any insurance company, files a statement of claim containing any false, incomplete or misleading information is subject to prosecution and punishment of insurance fraud, as provided in RSA 638:20.

** **New Jersey:** Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties.

** **New Mexico:** ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO CIVIL FINES AND CRIMINAL PENALTIES.

** **Ohio:** Any person who, with intent to defraud or knowing that he is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement is guilty of insurance fraud.

** **Oklahoma:** WARNING: Any person who knowingly, and with intent to injure, defraud or deceive any insurer, makes any claim for the proceeds of an insurance policy containing any false, incomplete or misleading information is guilty of a felony.

** **Pennsylvania:** Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

** **Puerto Rico:** Any person who knowingly and with the intention of defrauding presents false information in an insurance application, or presents, helps, or causes the presentation of a fraudulent claim for the payment of a loss or any other benefit, or presents more than one claim for the same damage or loss, shall incur a felony and, upon conviction, shall be sanctioned for each violation with the penalty of a fine of not less than five thousand dollars ($5,000) and not more than ten thousand dollars ($10,000), or a fixed term of imprisonment for three (3) years, or both penalties. Should aggravating circumstances [be] present, the penalty thus established may be increased to a maximum of five (5) years, if extenuating circumstances are present, it may be reduced to a minimum of two (2) years.

** **Rhode Island:** Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

** **Tennessee, Virginia, and Washington:** It is a crime to knowingly provide false, incomplete or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines and denial of insurance benefits.

** **Texas:** Any person who knowingly presents a false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison.

** **If you live in a state other than mentioned above, the following statement applies to you:** Any person who knowingly, and with intent to injure, defraud or deceive any insurer or insurance company, files a statement of claim containing any materially false, incomplete, or misleading information or conceals any fact material thereto, may be guilty of a fraudulent act, may be prosecuted under state law and may be subject to civil and criminal penalties. In addition, any insurer or insurance company may deny benefits if false information is related to a claim by the claimant.

›How to File a Short-Term Disability Claim

Mutual of Omaha

Group Name:

Policy#

Your short-term disability plan helps protect your income in the event of a disabling illness or injury. If you become disabled, please follow the instructions below on how to file a claim with Mutual of Omaha.

In order to process your claim timely, all three sections of the claim submission must be completed and signed (total of 6 pages):

1. Section 1: Employee statement including authorizations to release information
2. Section 2: Employer's statement
3. Section 3: Attending Physician's Statement

Finding Forms:

Find the Short-Term Disability forms online:
www.mutualofomaha.com/customer-service
In the Forms tab, choose your employer state and click "Get Forms." Under "Disability Forms" select "Short-Term Disability Claim Form Mutual and United."
If you file online, select "Online Short-Term Disability Claim Form – Employee Statement."
Or
Contact your Benefits Administrator directly

FILING OPTIONS

Fax/Paper:

1. Select "Short-Term Disability Claim Form Mutual and United" and print.
2. Complete your section and have your employer and physician complete their sections, sign.
3. Fax ALL 6 pages to Mutual of Omaha at 402-997-1865.

Or, scan the completed and signed forms and email to:
newdisabilityclaim@mutualofomaha.com

Online:

1. Select "Online Short-Term Disability Claim Form – Employee Statement."
2. Complete the online form by providing all requested information. We only accept Section 1 (Employee Statement) online.
3. Provide your physician's contact information (phone, fax, address) in the required field.
4. Select "Submit."
5. Print "Authorization to Disclose Personal and Health Information" forms.

Complete, sign and fax to 402-997-1865.

Or scan the completed and signed forms and email to:

newdisabilityclaim@mutualofomaha.com

Phone:

1. Call 800-877-5176 to start the claims process.
2. A customer service representative will complete Section 1 (Employee Statement) with you.
3. After the call, print "Authorization to Disclose Personal and Health Information" form.
4. Complete, sign and fax to 402-997-1865.

Or, scan the completed and signed forms and email to:

newdisabilityclaim@mutualofomaha.com

Or mail them to:

Mutual of Omaha Insurance Company
Group Insurance Claims
3300 Mutual of Omaha Plaza
Omaha, NE 68175-0001

*Mutual of Omaha will fax an Attending Physician Statement to your physician.

39280